

# House Study Bill 182 - Introduced

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON HOLT)

## A BILL FOR

1 An Act relating to the denial and contest of probate claims.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633.438, Code 2021, is amended to read  
2 as follows:

3 **633.438 General denial of claims.**

4 Where a claim has been filed, but not admitted in writing  
5 by the personal representative before a request for hearing  
6 has been given as hereinafter provided, the claim shall be  
7 considered as generally denied by the personal representative  
8 without any pleading on behalf of the personal representative.

9 Sec. 2. Section 633.440, Code 2021, is amended to read as  
10 follows:

11 **633.440 Contents of notice of disallowance.**

12 Such a notice of disallowance shall advise the claimant  
13 that the claim has been disallowed and will be forever barred  
14 unless the claimant shall within twenty days after the date of  
15 mailing the notice, file a request for hearing on the claim  
16 with the clerk, ~~and mail a copy of such request for hearing to~~  
17 ~~the personal representative and the attorney of record, if any,~~  
18 ~~by certified mail.~~

19 Sec. 3. Section 633.442, Code 2021, is amended to read as  
20 follows:

21 **633.442 Claims barred after twenty days.**

22 Unless the claimant shall within twenty days after the  
23 date of mailing the notice of disallowance, file a request  
24 for hearing with the clerk ~~and mail a copy of the request for~~  
25 ~~hearing to the personal representative and to the attorney of~~  
26 ~~record, if any,~~ the claim shall be deemed disallowed, and shall  
27 be forever barred.

28 Sec. 4. Section 633.443, Code 2021, is amended to read as  
29 follows:

30 **633.443 Request for hearing by claimant.**

31 At the time of the filing of a claim against an estate, or  
32 at any time thereafter prior to the time that the claim may be  
33 barred by the provisions of [section 633.442](#), or the approval of  
34 the final report of the personal representative after notice to  
35 the claimant, the claimant may file a request for hearing with

1 the clerk, ~~and mail a copy of the request for hearing to the~~  
2 ~~personal representative and attorney of record, if any.~~

3 Sec. 5. Section 633.444, Code 2021, is amended to read as  
4 follows:

5 **633.444 Applicability of rules of civil procedure.**

6 ~~Within twenty days from the filing of the request for~~  
7 ~~hearing on a claim, the personal representative shall move or~~  
8 ~~plead to said claim~~ The personal representative shall file a  
9 pre-answer motion or answer to a claim within twenty days from  
10 the filing of the request for hearing on the claim in the same  
11 manner as though the claim were a petition filed in an ordinary  
12 action, and thereafter, all provisions of law and rules of  
13 civil procedure applicable to motions, pleadings and the trial  
14 of ordinary actions shall apply; provided, however, that a  
15 restatement of such claim shall not be barred by the provisions  
16 of [section 633.410](#).

17 Sec. 6. Section 633.447, Code 2021, is amended to read as  
18 follows:

19 **633.447 Trial and hearing.**

20 The trial of a claim and the offsets or counterclaims, if  
21 any, shall be to the court without a jury. However, the court  
22 may, in its discretion, either on its own motion or upon the  
23 motion of any party, submit the matter to a jury. In the event  
24 that the amount of the claim or a counterclaim exceeds the sum  
25 ~~of three hundred dollars~~ stated in section 631.1, subsection  
26 1, either party shall be entitled to a jury trial, if a written  
27 demand is made as provided in the rules of civil procedure in  
28 relation to the trial of ordinary actions.

29 Sec. 7. Section 633.448, Code 2021, is amended to read as  
30 follows:

31 **633.448 Allowance and judgment.**

32 Upon the trial of a claim, offsets and counterclaims, the  
33 amount owing by or to the estate, if any, shall be determined.  
34 A claim against the estate shall be allowed for the net amount.  
35 Judgment shall be rendered for any amount found to be due the

1 estate. If a judgment is rendered against a claimant for  
2 any net amount, execution may issue in the same manner as on  
3 judgments in civil cases. The judgment against any interested  
4 party may be deducted from any amounts the estate owes to the  
5 interested party.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with  
8 the explanation's substance by the members of the general assembly.

9 This bill amends the probate code relating to the denial and  
10 contest of claims and counterclaims. The bill provides that  
11 for general denials of claims when a claim has been filed, but  
12 not admitted in writing by a personal representative before a  
13 hearing request, the claim is considered as generally denied  
14 by the personal representative.

15 The bill removes the requirement on the claimant to mail a  
16 copy of a request for hearing to the personal representative  
17 and to the attorney of record, if any, from Code sections  
18 633.440, 633.442, and 633.443.

19 The bill provides that the personal representative shall  
20 file a pre-answer motion or answer to a claim within 20 days of  
21 the filing of the request for hearing on a claim in the same  
22 manner as though the claim was a petition filed in an ordinary  
23 action.

24 The bill provides that if the amount of the claim exceeds the  
25 small claims court jurisdictional amount (\$6,500 for actions  
26 commenced on or after July 1, 2018), either party is entitled  
27 to a jury trial if a written demand is made. Under current law,  
28 either party is entitled to a jury trial if the amount of the  
29 claim exceeds \$300.

30 The bill provides that a judgment against any interested  
31 party may be deducted from any amounts owed by the estate to  
32 the interested party.